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Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

Note verbale dated 19 June 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan, and has the honour to transmit herewith the report submitted by Spain on implementation of Security Council resolution 2340 (2017) concerning the Sudan (see annex).

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Annex to the note verbale dated 19 June 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

Report of Spain on the implementation of Security Council resolution 2340 (2017)

Introduction

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1591 (2005) and, pursuant to paragraph 15 of Security Council resolution 2340 (2017), has the honour to present the required report regarding the specific action taken by Spain to implement effectively the provisions of Security Council resolutions 1556 (2004) and 1591 (2005).

Pursuant to paragraph 15 of Security Council resolution 2340 (2017), through which all States, particularly those in the region, are urged to report to the Committee on the actions they have taken to implement the measures imposed by Security Council resolutions 1556 (2004) and 1591 (2005), Spain, like the other States members of the European Union, has ensured the incorporation of Security Council sanctions resolutions into the European Union legal order through the corresponding European Union decisions and regulations.

(a) Decision 2014/450/CFSP of the Council of the European Union, of 10 July 2014, concerning restrictive measures in view of the situation in Sudan;

(b) Regulation (EU) 747/2014 of the Council of the European Union, of 10 July 2014, concerning restrictive measures in view of the situation in Sudan.

Legal framework

The relevant legal instruments that have been adopted are as follows:

(a) European Union Council Decision 2014/450/CFSP, of 10 July 2014, concerning restrictive measures in view of the situation in Sudan;

(b) European Union Council Regulation (EU) 747/2014, of 10 July 2014, concerning restrictive measures in view of the situation in Sudan.

Spain also has comprehensive national legislation in various areas that are closely related to some of the matters covered in Security Council resolution 2340 (2017) and therefore have an impact on the sanctions regime imposed on the Sudan.

Action taken to implement effectively the provisions of Security Council resolution 2340 (2017)

Action connected with the conventional arms embargo

The above-mentioned decisions and regulations are complemented, in this area, by Spanish legislation regulating foreign trade in defence-related and dual-use materials. Spain subjects such transactions to strict prior controls and, where the export of such materials is not prohibited, the requirement to obtain the relevant administrative licence from the competent national licensing authority.

Through the Interministerial Board for the Regulation of External Trade in Defence and Dual-Use Materials (JIMDDU) and the State Secretariat for Trade of the Ministry of Economy, Trade and Competitiveness, the Government of Spain makes a full analysis of every export transaction, taking account of the parameters

in articles 6 and 7 of the Arms Trade Treaty, the eight criteria in Council Common Position 2008/944CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, and the criteria in the Organization for Security and Cooperation in Europe Document on Small Arms and Light Weapons. During the evaluation of applications, particular attention is paid to importing countries' compliance with Common Position criterion 1 (embargoes), criterion 2 (respect for human rights), criterion 3 (internal situation), criterion 4 (regional situation) and criterion 7 (risk of diversion), with authorization of transactions being denied if the criteria are not met.

The competent authorities in Spain comply very strictly with the restrictive measures associated with the United Nations and European Union embargoes. They consequently meet regularly with companies in the industry concerned to explain to them the legislation in force and the Spanish export-control system, with particular emphasis on current embargoes. Spanish companies are consequently aware of the restrictions on exports of arms and related materiel to countries covered by embargoes, and they therefore generally do not apply for licences in connection with those countries of destination.

The applicable national legislation in this field is contained in Act No. 53/2007 of 28 December 2007 on the control of foreign trade in defence-related and dual-use materials, in the Regulations on the control of foreign trade in defence-related material, other material and dual-use items and technology approved through Royal Decree No. 679/2014 of 1 August 2014, and in Order ECC/1493/2016, of 19 September 2016, updating the annexes to the aforementioned Regulations. Article 8 of the Act in certain circumstances allows applications for licences to be denied and licences granted to be suspended or revoked by an order issued by the head of the State Secretariat for Trade. Licences must in any case be revoked for failure to comply with the conditions attached to them and providing grounds for their issuance, or if the applicant has omitted or falsified information.

European Union Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items is also noteworthy. This regulation gives member States the power to prevent the brokering of any goods or materials that could be used in connection with a weapons-of-mass-destruction programme in the destination State, or of any dual-use material with possible military use in a State subject to an arms embargo.

The definition of the offences and penalties which apply in Spain to failure to implement the sanctions on the part of operators are established in Organic Act 12/1995, of 12 December 1995, on countering smuggling, amended by Organic Act 6/2011 of 30 June 2011. Exporting such goods without a licence is defined as smuggling if their value equals or exceeds €50,000, and that offence carries a prison term of one to five years and fines of up to six times the value of the exported goods.

No applications have been received under the above-mentioned legislation for exports related to the arms trade between Spain and the Sudan.

Entry bans and travel restrictions

The list of individuals subject to entry bans and travel restrictions has been incorporated into the above-mentioned instruments, which, together with Council Regulation (EC) 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders, form the basis for prohibiting entry into the territory of the European Union.

Spanish policy on foreign nationals is also governed by Organic Act 4/2000, of 11 January 2000, on the rights and freedoms of aliens in Spain and their social integration.

Financial measures and asset freezes

Spain has specific legislation on countering money-laundering and international terrorist financing, which complements the legal instruments adopted at the European Union level. Article 42 of Act 10/2010, of 28 April 2010, on preventing money-laundering and terrorist financing, explicitly mentions the freezing of funds in accordance with international sanctions.